

REMARKS

Claims 1-15 are pending in the subject application. Claims 1 and 11 are amended. Applicants submit that the amendments herein introduce no new matter, support therefore being found throughout the application as originally filed (e.g. see page 5, line 10 – page 7, line 11). Reconsideration of the previous rejections in light of the remarks that follow is respectfully requested.

1. 35 U.S.C. §102 Rejections

Claims 1-4 and 11 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,452,089 to Bushman (hereinafter “Bushman”). Applicants respectfully traverse. However, in the interest of expediting prosecution, and in no way acquiescing to the validity of the Examiner’s rejection, Applicants have amended the claims.

In particular, Applicants recite a method for detecting an object from its background or surroundings by viewing an area with a viewing device, while selectively and varyingly changing a sensitivity of the viewing device to certain wavelengths of light (electromagnetic radiation) lying in any one of the ultraviolet (UV) range, the visible range, the near infrared range or the far infrared range; and determining the presence of an object when a visual difference between the object and background is discerned when the sensitivity of the viewing device is changed to a certain mixture of wavelengths of light, wherein the visual difference between the object and background is a difference in color or tonality. Applicants further recite an apparatus for detecting an object from its background or surroundings comprising an electro-optical viewing device being capable of detecting light in one of the ultraviolet (UV) range, the visible range, the near infrared or the far infrared; and a mechanism, disposed between the object and the electro-optical viewing device, configured and arranged to selectively and varyingly change the optical input to the electro-optical viewing device lying in one of the ultraviolet (UV) range, the visible range, the near infrared or the far infrared. As set out, the device is configured such that as the optical input to the device is varied, the device provides a visual difference between the color or tonality of the object and the background.

Bushman, on the other hand, describes a search light that employs variable polarization angles. As set out, flashing appears to an observer when the light beam impinges on man-made objects, while background objects such as trees, rocks, etc. do not flash due to the alternating polarization angles (see, e.g. col. 1, line 65 – col. 2, line 31). Nowhere does Bushman teach or suggest a method or device wherein as optical input to the device is varied, a visual difference in color or tonality between the object and background is provided.

In view of the foregoing arguments, Applicant respectfully submits that claims 1 and 11 are patentable over Bushman. Claims 2-4 depend from claim 1 and, thus, also are patentable over Bushman. Reconsideration and withdrawal of the rejection is respectfully requested.

2. 35 U.S.C. §103 Rejections

Bushman and Miller

Claims 5-10 and 12-14 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Bushman in view of U.S. Patent No. 5,940,183 to Miller (hereinafter “Miller”). Applicants respectfully traverse.

As set forth above with respect to independent claims 1 and 11, Bushman fails to teach or suggest Applicants’ claimed method and device. Miller does not remedy these deficiencies. Rather, Miller is directed towards a filter assembly used to analyze various assays (e.g. nucleic acids) for clinical applications.

Accordingly, claims 1 and 11 are patentable over Bushman and Miller. Claims 5-10 and 12-14 depend from claims 1 and 11 and, thus, also are patentable over Bushman and Miller. Reconsideration and withdrawal of the rejection is respectfully requested.

Bushman, Miller, and Korniski

Claim 15 stands rejected under 35 U.S.C. §103(a) over Bushman, Miller, and U.S. Patent No. 6,646,799 to Korniski et al. (hereinafter “Korniski”).

As set forth above with respect to independent claims 1 and 11, Bushman and Miller fail to teach or suggest Applicants' claimed method and device. Korniski does not remedy the deficiencies of Bushman and Miller discussed above. Rather, Korniski describes a sensor that operates in multiple bands of radiation and displays either one radiation band alone or multiple overlaid bands.

Accordingly, claim 11 is patentable over Bushman, Miller, and Korniski. Claim 15 depends from claim 11 and, thus, also is patentable over Bushman, Miller, and Korniski. Reconsideration and withdrawal of the rejection is respectfully requested.

CONCLUSION

It is believed the application is in condition for immediate allowance, which action is earnestly solicited.

If for any reason a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge or credit Deposit Account No. 04-1105 under Order No. 58096(71106).

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Respectfully submitted,

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